



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No.: 210415-0082]

RTID 0648-XB316

Pacific Halibut Fisheries; Catch Sharing Plan; Inseason Action

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: This document announces two additional season dates of August 27 and September 24 for the Washington South Coast and Columbia River subareas for Pacific halibut recreational fisheries in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. This action is intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: This action is effective [*insert date of filing for public inspection in the Federal Register*], through September 30, 2021. Submit comments on or before [*insert date 15 days after date of publication in the Federal Register*].

ADDRESSES: Submit your comments, identified by NOAA-NMFS-2020-0157, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to www.regulations.gov/docket/NOAA-NMFS-2020-0157, click the "Comment" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry Thom, c/o Kathryn Blair, West Coast Region, NMFS, 1201 NE Lloyd Blvd Suite 1100, Portland, OR, 97232.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends.

All comments received are a part of the public record and NMFS will post them for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Docket: This rule is accessible via the Internet at the Office of the Federal Register website at <https://www.federalregister.gov/>. Background information and documents are available at the NOAA Fisheries website at <https://www.fisheries.noaa.gov/action/2021-pacific-halibut-catch-sharing-plan> and at the Council's website at <http://www.pcouncil.org>. Other comments received may be accessed through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Kathryn Blair, phone: 503-231-6858, fax: 503-231-6893, or e-mail: kathryn.blair@noaa.gov.

SUPPLEMENTARY INFORMATION: On April 21, 2021, NMFS published a final rule implementing the Pacific halibut Area 2A Catch Sharing Plan and recreational (sport) management measures for 2021 (86 FR 20638), as authorized by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773-773(k)). The 2021 Catch Sharing Plan provides a recommended framework for NMFS' annual management measures and subarea allocations based on the 2021 Area 2A Pacific halibut catch limit of 1,510,000 pounds (lb) (684.9 metric tons (mt)). These Pacific halibut management measures include recreational fishery season dates and subarea allocations.

Federal regulations at 50 CFR 300.63(c), "Flexible Inseason Management Provisions for Sport Halibut Fisheries in Area 2A," allow the NMFS' Regional Administrator, after consultation with the Chairman of the Pacific Fishery Management Council (Council), the Executive Director of the International Pacific Halibut

Commission (IPHC), and the Fisheries Directors of the affected states, or their designees, to modify annual regulations during the season. These inseason provisions allow the Regional Administrator to modify sport fishing periods, bag limits, size limits, days per calendar week, and subarea quotas, if it is determined it is necessary to meet the allocation objectives and the action will not result in exceeding the catch limit. Regulations at this section also state that NMFS may take inseason action to transfer projected unused quota from recreational fisheries north of Cape Falcon, Oregon, and transfer it to another Washington subarea (50 CFR 300.63(c)(iii)).

NMFS has determined that, due to lower than expected landings in portions of Washington, inseason action to modify the 2021 annual regulations is warranted at this time to help ensure the Area 2A allocations as published in the final rule (86 FR 20638; April 21, 2021) are met. As stated above, inseason modification of the fishing season is authorized by Federal regulations at 50 CFR 300.63(c). After a virtual consultation with IPHC, the Council, and the Washington Department of Fish and Wildlife (WDFW) on July 23, 2021, NMFS determined the following inseason action is necessary to meet the management objective of attaining the subarea allocations, and is consistent with the inseason management provisions allowing for the modification of sport fishing periods and sport fishing days per calendar week. Notice of these additional dates and closure of the fisheries will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Inseason Action

Description of the action: This inseason action implements up to two additional fishing dates for the Washington South Coast and Columbia River subareas during the 2021 recreational fishery.

Reason for the action: The purpose of this inseason action is to provide additional opportunity for anglers in Washington on August 27 and September 24. NMFS has

determined that these additional dates are warranted due to much lower than expected landings through July 2021, and the expectation that a substantial amount of subarea allocation will go unharvested without additional fishing dates. As of July 22, anglers in all Washington and Columbia River subareas have harvested 203,899 lb (92.5 mt) of the 289,517 lb (131.3 mt) allocations, leaving 85,618 lb remaining (30 percent of the subarea allocation). For reference, in 2018 and 2019, all Washington and Columbia River subareas had attained 94 and 93 percent, respectively, of the available recreational quota by the end of June. On July 21, 2021, NMFS published an inseason (86 FR 38415) adding additional open dates for the Washington North Coast and Puget Sound subareas based on data through June 10, 2021. Catch tracked lower than anticipated for the remaining June season dates and even with the additional 17 fishing dates, NMFS estimates that there would be quota remaining from the Washington allocation. Without additional fishing days in this action, the season dates implemented in the April 21, 2021 (86 FR 20638) final rule and including the additional days in the July 21, 2021 inseason (86 FR 38415), would likely result in substantial unharvested quota in the state of Washington.

In order for anglers to have the opportunity to achieve the combined subarea allocations in Washington, and with little risk of the quota being exceeded, WDFW requested NMFS implement additional season dates for participants in the Washington South Coast and Columbia River subareas. Therefore, through this action NMFS is announcing new season dates in August and September that were not previously implemented in the April 21, 2021 final rule (86 FR 20638) and the July 21, 2021 inseason (86 FR 38415). Specifically, the additional season dates for the Washington South Coast and Columbia River subareas are August 27 and September 24. These additional dates result in up to two statewide open days, with the Washington North

Coast and Puget Sound already scheduled to be open on those dates. WDFW recommended these dates to NMFS after consultation with their stakeholders.

These dates were determined in consultation with WDFW, the Council, and IPHC. Notice of these additional dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Weekly quota monitoring reports for the recreational fisheries in Washington, Oregon, and California are available on their respective state Fish and Wildlife agency websites. NMFS and the IPHC will continue to monitor recreational catch obtained via state sampling procedures until NMFS has determined there is not sufficient quota for another full day of fishing, and the area is closed by the IPHC, or the season closes on September 30, whichever is earlier.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(c), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. WDFW provided updated landings data to NMFS on July 22, 2021, and requested additional fishing dates be added before the close of the recreational halibut fishery on September 30, 2021, as the fishery participants in the Washington recreational fishery have only caught 70 percent of all Washington and the Columbia River subarea's combined allocations. NMFS uses fishing rates from previous years to determine the number of recreational fishing dates needed to attain subarea allocations. The level of attainment of the allocation for 2021 is much lower than past years for this same point in time, and was not anticipated when the 2021 final rule setting the 2021 recreational fishery season dates was developed. This action should be

implemented as soon as possible to allow fishery participants to take advantage of the additional fishing dates prior to the end of the season. As the fishery closes on September 30, 2021, implementing this action through proposed and final rulemaking would limit the benefit this action would provide to fishery participants. Without implementation of additional season dates, the combined Washington and Columbia River subarea allocations would not be harvested, limiting economic benefits to the participants and not meeting the goals of the Catch Sharing Plan and the 2021 management measures. It is necessary that this rulemaking be implemented in a timely manner so that planning for these new fishing days can take place, and for business and personal decision making by the regulated public impacted by this action, which includes recreational charter fishing operations, associated port businesses, and private anglers who do not live near the coastal access points for this fishery, among others. To ensure the regulated public is fully aware of this action, notice of this regulatory action will also be provided to anglers through a telephone hotline, news release, and by the relevant state fish and wildlife agencies. NMFS will receive public comments for 15 days after publication of this action, in accordance with 50 CFR 300.63(c)(4)(ii). No aspect of this action is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(c).

For the reasons discussed above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this action effective immediately upon filing for public inspection, as a delay in effectiveness of this action would constrain fishing opportunity and be inconsistent with the goals of the Catch Sharing Plan and current management measures, as well as potentially limit the economic opportunity intended by this rule to the associated fishing communities. NMFS regulations allow the Regional Administrator to modify sport fishing periods, bag limits, size limits, days per calendar week, and subarea quotas, provided that the action allows

allocation objectives to be met and will not result in exceeding the catch limit for the subarea. NMFS recently received information on the progress of landings in the recreational fisheries in Washington subareas, indicating additional dates should be added to the fishery to ensure optimal and sustainable harvest of the quota. As stated above, it is in the public interest that this action is not delayed, because a delay in the effectiveness of these new dates would not allow the allocation objectives of this fishery to be met.

Dated: August 19, 2021.

Kelly Denit,

Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2021-18211 Filed: 8/20/2021 4:15 pm; Publication Date: 8/24/2021]